

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1993

ARTHUR L. GUSTAFSON,
DANIEL R. McLEAN and
FRANCIS I. BUTLER,

Petitioners,

v.

ALLOYD CO., INC., a Delaware corporation,
f/k/a ALLOYD HOLDINGS, INC., and WIND POINT
PARTNERS II, L.P., a Delaware limited partnership,

Respondents.

On Petition for Writ of Certiorari to the United
States Court of Appeals for the Seventh Circuit

**RESPONDENTS OPPOSITION TO
PETITIONERS' MOTION FOR CONSOLIDATION**

Respondents Alloyd Co., Inc. and Wind Point Partners
II, L.P. oppose Petitioners' Motion for Consolidation.¹ In
opposition to Petitioners' motion, Respondents state as
follows:²

¹ Pursuant to Supreme Court Rule 29.1, Respondents included the required list of parties in their Brief in Opposition to the Petition for Writ of Certiorari.

² Respondents received a copy of Petitioners' Motion to Consolidate on November 29, 1993. Pursuant to Supreme Court Rule 21, Respondents' response is due within ten days (December 9, 1993).

4/19/94

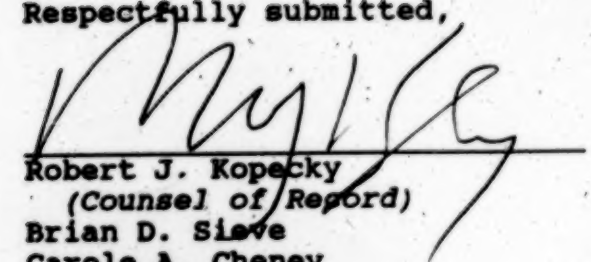
1. Petitioners' motion for consolidation is premature and should be denied. This Court has not granted certiorari in either this case or Allen & Co. Inc. v. Pacific Dunlop Holdings, Inc., No. 93-201. Unless and until certiorari is granted in both cases, consolidation is inappropriate. Supreme Court Rule 27.3, relied upon by Petitioners as authority for their motion to consolidate, pertains only to consolidation of oral argument; that rule has no application here. For a more detailed analysis of the lack of authority for consolidating pending certiorari petitions, Respondents respectfully refer the Court to the Response of Pacific Dunlop Holdings Inc. ¶¶ 1-2.

2. Moreover, as Respondents explained in their brief in opposition to the Petition for a Writ of Certiorari (Brief in Opposition at 6), this case stands in a much different procedural posture than Allen & Co. The District Court is currently considering fully briefed motions for summary judgment in this case on issues separate from those raised in the Petition for Certiorari. As a result, this case is not ripe for review by this Court. Given the interlocutory nature of this case, Respondents respectfully suggest that it would be inappropriate to consolidate this case with Allen & Co. at this time.

WHEREFORE, Respondents request that this Court deny Petitioners' Motion to Consolidate.

DATED: December 9, 1993

Respectfully submitted,


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II, L.P.

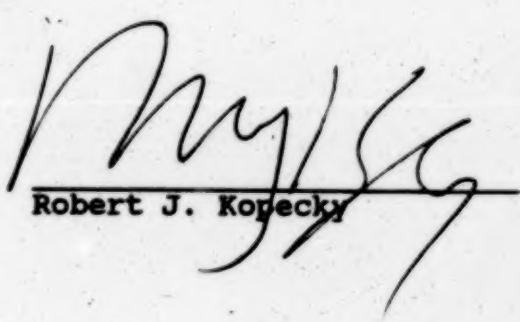
WPPD41.BDS

CERTIFICATE OF SERVICE

I, Robert J. Kopecky, an attorney, hereby certify that I caused a copy of the foregoing Respondents' Opposition to Petitioners' Motion for Consolidation, to be served via United States mail, first-class postage prepaid, this 9th day of December, 1993 upon:

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